

**AMENDMENTS TO THE CLAIMS WITH MARKINGS TO SHOW CHANGES
MADE, AND LISTING OF ALL CLAIMS WITH PROPER IDENTIFIERS**

1. (Previously amended) An ophthalmologic instrument for microsurgery in an eye comprising:
 - a housing configured as a handle and a functional unit disposed thereon and an actuator supported within the housing in operative engagement with a sliding pin and connected with the functional unit; and
 - a tube shaped probe which extends into a head piece and is movable in axial direction relative thereto for operative engagement with the functional unit; and
 - a rod which is co-axially supported within the probe which extends into a head piece configured as a grasping element and having two arms separated by a slot, the two arms are configured with distal end portions which are substantially transverse to the longitudinal axis and delimiting a recess opposing one another and are movable relative to one another into an elastic pre-tensioning first position wherein both arms are spread apart and a second position wherein the end portions terminate into opposing end faces, which when both arms are pressed together form a flush closure such that the two opposing recesses are formed together into a common recess for freely retaining and holding micro structures without squeezing or pinching the microstructures, and wherein the two arms starting from the cylindrical rod in direction of the frontal face of the

head piece are tapered off with opposing outside walls of the taper configured in one of a straight or an arcuate shape.

2. (Original) The microsurgical instrument of claim 1, further comprising a light guide connected to a light source and coordinated with the headpiece which projects from the probe in the direction of the common recess formed by the two arms.
3. (Original) The microsurgical instrument of claim 2, wherein the light guide has a front face from which light rays can emanate and be directed to the recess.
4. (Original) The microsurgical instrument of claim 2, wherein the front face of the light guide is configured as a convex optical lens.
5. (Original) The microsurgical instrument of claim 4, wherein the front face of the light guide is provided with an optical lens.
6. (Previously amended) The microsurgical instrument of claim 2, wherein the front face of the light guide is configured in slanted relationship to the longitudinal axis of the light guide, which is directed toward the recess.

7. (Previously amended) The microsurgical instrument of claim 1, wherein each of the recesses of are bounded frontally by claw-like shaped legs integrally formed at the two arms and configured in such a way that when the arms are brought into a closed position, opposing edges of the legs can be pressed together for a flush closure.
8. (Original) The microsurgical instrument of claim 7, wherein each of the legs are provided with an edge which oppose one another and which are of a size smaller than one half the diameter of the rod having a cylindrical shape.
9. (Original) The microsurgical instrument of claim 1, wherein the recess of each of the arms starting from a frontal leg thereof in direction of the slot is arcuately shaped such that in a closed position the common recess has the shape of a tear drop
10. (Original) The microsurgical instrument of claim 9, wherein an inside length of the tear drop shaped recess is greater than the inside width of the tear drop shape.
11. (Original) The microsurgical instrument of claim 1, wherein the recess of each of the arms each starting from a frontal leg thereof in axial direction of the slot is arcuately shaped such that in a closed position the common recess has an elongated shape.

12. (Original) The microsurgical instrument of claim 11, wherein the inside length of the elongated common recess oriented in axial direction of the headpiece is smaller than then the inside width, which is oriented perpendicularly thereto.
13. (Original) The microsurgical instrument of claim 1, wherein the recess of each arm each starting from a frontal leg thereof in axial direction of the slot is arcuately shaped such that in a closed position the common recess has a circular shape.
14. (Original) The microsurgical instrument of claim 13, wherein the inside diameter of the circular shaped common recess is substantially the same as the outer diameter of the tube shaped probe.
15. (Original) The microsurgical instrument of claim 1, wherein the two arms starting from the cylindrical rod in direction of the frontal face of the head piece are tapered off with opposing side walls of the taper configured in one of a straight or an arcuate shape.
16. (Original) The microsurgical instrument of claim 1, wherein the cylindrical rod comprises two portions connected to each other, each of the portions having a profile cross section configured in semicircular shape which extend at one

end into a head piece of claw-like configuration and a recess.

17. (Original) The microsurgical instrument of claim 2, wherein the tube shaped probe is configured for receiving the rod and the light guide and provided at one end with a first tube shaped piece supported in a guide sleeve and at the other end provided with a second tube shaped piece for co-axially supporting the rod.
18. (Original) The microsurgical instrument of claim 17, wherein the probe with the first tube piece and the second tube piece are formed as a unit which is axially movable relative to the head piece provided with the stationary rod.
19. (Previously amended) The microsurgical instrument of claim 17, wherein the first tube piece is provided with an inlet opening for insertion of the light guide is formed at the upper portion of the probe and axially at a distance an exit opening for exiting of the light guide.
20. (Original) The microsurgical instrument of claim 19, wherein the end of light guide exiting from the opening is disposed at the outer wall of the second tube piece.
21. (New) Currently amended) An ophthalmologic instrument for microsurgery in an eye comprising:

- a housing configured as a handle and a functional unit disposed thereon and an actuator supported within the housing in operative engagement with a sliding pin and connected with the functional unit; and
- a tube shaped probe connected with the actuator and movable in axial direction relative to a head piece for operative engagement with the functional unit; and
- a rod extending into the head piece is co-axially supported within the probe and secured against axial displacement, wherein the head piece is configured as a grasping element and having two arms separated by a slot, the two arms are configured with distal end portions which are substantially transverse to the longitudinal axis and delimiting a recess opposing one another and are movable relative to one another into an elastic pre-tensioning first position wherein both arms are spread apart and a second position wherein the end portions terminate into opposing end faces, which when both arms are pressed together form a flush closure such that the two opposing recesses are formed together into a common recess for freely retaining and holding micro structures without squeezing or pinching the microstructures, and wherein the two arms starting from the cylindrical rod in direction of the frontal face of the head piece are tapered off with opposing outside walls of the taper configured in one of a straight or an arcuate shape.

REMARKS

This communication is filed in response to the Official Action dated September 23, 2004.

An Amendment after Final was filed January 23, 2004, which did not result in claim 1 being allowed. Applicant has conducted an interview with the Examiner on February 17 in which claim 1 was discussed as to the amendment. The Examiner acknowledged that amended claim 1 would overcome the reference cited previously but that a new search would have to be conducted. Since there were allowable claims in the application, applicant has now presented claim 21 which tracks the amendments that were submitted in connection with claim 1 in the Amendment After Final.

Applicant files concurrently herewith a Request for Continued Prosecution (RCE).

Reconsideration of the instant application in view of the newly presented claim 21 is respectfully requested.

Claims 1-20 are pending in the application. No claims have been canceled. New claim 21 has been added. A total of 21 claims are now on file. The claim surcharge for one claim is enclosed.

It is further noted that claim 12 is objected to.

Claims 1, 7, 9, 10, 11, 15 and 16 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 5,222,973 (hereinafter "Sharpe").

Claims 2-6 stand rejected under 35 U.S.C. §102(b) as being anticipated by Sharpe in view of U.S. Pat. No. 5,746,770 (hereinafter "Zeitels").

Applicant acknowledges with appreciation that claims 8, 12-14 and 17-20 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. However, applicant wishes to defer allowance until such time that new claim 21 has been further examined.

The Sharpe device works completely different than the claimed device. In the claimed device, the rod extending into the head piece is stationary relative to the probe. The tube-shaped probe in which the rod is supported is operatively connected to the actuator and is movable together therewith in axial direction relative to the rod respectively the stationary head piece, whereby the two arms separated by the slot are being pressed together thereby closing the slot.

This functional arrangement is very different from Sharpe. In Sharpe, the pretensioning of the device includes moving the rod with the adjacent head piece through a tube, in other words the operation of the device depends upon the pulling of the head piece in a pretensioning motion. In operative mode the head piece is in "back and forth" type motion. The difference in the functional aspect of the specific structures such as, the rod with the head piece and the tube shaped probe are also predicated upon the difference in the utility of the instrument. While the Sharpe device is used for pulling and grasping tissue, the claimed device is configured to hold tissue strands in a non grasping manner, for example to hold a blood vessel teased out from a bundle of blood vessels or similar structure.

New claim 21 also overcomes the obviousness rejection based on Sharpe, since the Sharpe device as the foregoing discussion shows, teaches in the opposite direction from the claimed invention. Thus even a combination of the Sharpe reference with Zeitels becomes moot.

It is believed that new claim 21 overcomes the discussed rejections and would place 21 in allowable condition.

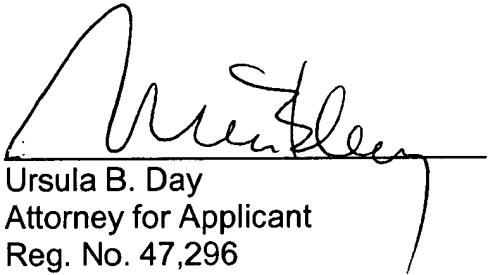
Applicant also resubmits herewith the Information Disclosure Statement for the Examiner's consideration.

The Examiner is requested to take the foregoing into account when taking up the application for examination.

The Commissioner is hereby authorized to charge fees which may be required, or credit any overpayment to Deposit Account No. 06-0502.

Respectfully submitted,

By:


Ursula B. Day
Attorney for Applicant
Reg. No. 47,296

Date: February 18, 2004
350 Fifth Avenue
Suite 4714
New York, N.Y. 10118
(212) 904-1815
UBD:be